

FACSIMILE TRANSMITTAL FORM	Application Number	10/762678
	Filing Date	January 20, 2004
	First Named Inventor	Ouderkirk, Andrew J.
	Art Unit	2814
	Examiner Name	Louie, Wai Sing
Fax: 703-872-9306	Attorney Docket Number	58388US004
Total Number of Pages in This Submission: 4		
Date: April 18, 2005	Attorney for Applicant: Stephen C. Jensen	

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Issue Fee Transmittal <input type="checkbox"/> Amendment Transmittal	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/Declaration(s)	<input type="checkbox"/> Petition to Convert a Provisional Application	<input type="checkbox"/> Appeal Communication to Technology Center (Appeal Notice, Brief, Reply Brief)
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<input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR § 1.52 or 1.53	<input type="checkbox"/> Request for Refund <input type="checkbox"/> Request for Continued Examination (RCE) Transmittal	
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Patent
Case No.: 58388US004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor: OUDERKIRK, ANDREW J.

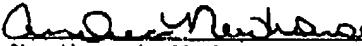
Application No.: 10/762678 Group Art Unit: 2814

Filed: January 20, 2004 Examiner: Louie, Wai Sing

Title: PHOSPHOR BASED LIGHT SOURCES HAVING FRONT ILLUMINATION

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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April 18, 2005 Date	Signed by: Andrea Newhouse 

Dear Sir:

This is in response to the Office Action dated 03/17/2005. The Office Action set a 1-month shortened statutory period to respond, which period extends to April 17, 2005 (a Sunday).

In the Office Action, pending claims 1-23 were restricted under 35 USC § 121 as follows:

- I. Claims 1-21, said to be "drawn to a light source, classified in class 257, subclass 79";
- II. Claims 22-23 said to be "drawn to a method of illuminating phosphor of the light source, classified in class 438, subclass 24".

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The Office Action also stated:

"Inventions Group I and Group II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product as claimed can be made by another and materially different process, such that instead of emitting light from the LED toward a reflector to produce emitted light, it would be possible to provide a surface emitting LED, which do not require a reflector."

Election With Traverse

In response, Applicants elect Group I, with traverse. Reconsideration and withdrawal of the restriction requirement is respectfully requested.

Election is made with traverse because the Examiner has mischaracterized the invention of at least Group II. For example, the Examiner classifies the invention of claims 22-23 in class 438: "Semiconductor Device Manufacturing Process" (emphasis added). Consistent with this, in the paragraph quoted above, the Examiner characterizes Group II as a process of making a product. However, independent claim 22 recites "[a] method of illuminating phosphor", not a method of making a product. Class 438 is therefore inappropriate as a classification of independent claim 22 and its dependent claim 23, and the Examiner's analysis in the quoted paragraph is erroneous.

The Examiner's analysis is also faulty because it attempts to draw a distinction between "surface emitting LED's and (presumably) other types of LEDs, but the distinction cannot be clearly understood from the Office Action. Indeed, any distinction between "surface emitting LEDs" and other types of LEDs is irrelevant to the claims at issue.

Applicants further submit that the Group I and Group II claims are sufficiently close in subject matter that a search of one group of claims is likely to reveal art relevant to the other.

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Applicants have elected Group I with traverse. Continued prosecution of this application is respectfully requested.

It is believed that no fee is due, but if this belief is incorrect, please charge any required fee to Deposit Account No. 13-3723. The Examiner is invited to contact the undersigned at the indicated telephone number with questions that can be resolved with a simple teleconference.

Respectfully submitted,

18 April 2005
Date

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